

RECEIVED**MAY 30 2018**PETER A. MOORE, JR., CLERK
US DISTRICT COURT, EDNC**UNITED STATES DISTRICT COURT**

for the

Eastern District of North Carolina

Western Division

Case No.

5:18-cv-244-BO

(to be filled in by the Clerk's Office)

Bobby Hart*Plaintiff(s)**(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)***-v-****Delhaize America Transportation LLC, Med Fast
Urgent Care, Delhaize America Distribution Center
Food Lion, Mike Dickey, Richard Eason, Jim Daly***Defendant(s)**(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)*Jury Trial: (check one) ☒ Yes ☐ No**COMPLAINT FOR EMPLOYMENT DISCRIMINATION****I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Bobby Hart
Street Address	5121 Archer Rd.
City and County	Hope Mills / Cumberland
State and Zip Code	North Carolina, 28348
Telephone Number	(910) 977-6885
E-mail Address	bobhartnc@yahoo.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	Delhaize America Transportation LLC
Job or Title <i>(if known)</i>	
Street Address	2110 Executive Drive PO Box 1330
City and County	Salisbury / Rowan
State and Zip Code	North Carolina, 28145-1330
Telephone Number	910 892-9137
E-mail Address <i>(if known)</i>	

Defendant No. 2

Name	Med Fast Urgent Care
Job or Title <i>(if known)</i>	
Street Address	605 W Cumberland Street
City and County	Dunn / Harnett
State and Zip Code	North Carolina, 28344
Telephone Number	910 891-1391
E-mail Address <i>(if known)</i>	

Defendant No. 3

Name	Delhaize Distribution Center No. 4/Food Lion
Job or Title <i>(if known)</i>	
Street Address	2940 Arrowhead Rd.
City and County	Dunn / Harnett
State and Zip Code	North Carolina, 28334
Telephone Number	910 892-9137
E-mail Address <i>(if known)</i>	

Defendant No. 4

Name	Mike Dickey
Job or Title <i>(if known)</i>	General Manager Distribution Center No. 4
Street Address	2940 Arrowhead Rd.
City and County	Dunn / Harnett
State and Zip Code	North Carolina
Telephone Number	910 892-9137
E-mail Address <i>(if known)</i>	

Defendant List Continues

Defendant No. 5

Name Richard Eason
Job Human Resources Associate
Street Address 2940 Arrowhead Rd.
City and County Dunn / Harnett
State and Zip Code North Carolina, 28334
Telephone number 910 892-9137
E-Mail Address

Defendant No. 6

Name Jim Daly
Job Transportation Manager
Street Address 2940 Arrowhead Rd.
City and County Dunn / Harnett
State and Zip Code North Carolina, 28334
Telephone Number 910 892-9137
E-Mail Address

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is

Name	Delhaize America Distribution Center No, 4 / Food Lion
Street Address	2940 Arrowhead Rd.
City and County	Dunn / Harnett
State and Zip Code	North Carolina 28334
Telephone Number	910 892-9137

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to *(check all that apply)*:

- ☒ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- ☐ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)

- ☒ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- ☒ Other federal law *(specify the federal law)*:

The Genetic Nondiscrimination Information Act, Equal Pay Act, Retaliation

- ☒ Relevant state law *(specify, if known)*:

Health Insurance Portability Accountability Act

- ☐ Relevant city or county law *(specify, if known)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes *(check all that apply)*:

- ☐ Failure to hire me.
- ☐ Termination of my employment.
- ☐ Failure to promote me.
- ☒ Failure to accommodate my disability.
- ☐ Unequal terms and conditions of my employment.
- ☒ Retaliation.
- ☒ Other acts *(specify)*: Equal Pay Act, Genetic Information Nondiscrimination Act

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)
From 05/2017 - 01/2018

C. I believe that defendant(s) *(check one)*:

- ☒ is/are still committing these acts against me.
- ☐ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my *(check all that apply and explain)*:

- ☐ race _____
- ☐ color _____
- ☐ gender/sex _____
- ☐ religion _____
- ☐ national origin _____
- ☐ age *(year of birth)* _____ *(only when asserting a claim of age discrimination.)*
- ☒ disability or perceived disability *(specify disability)*

Flare ups from radiation petites because of treatment from rectal cancer. Doctor's orders no driving past ten hours.

E. The facts of my case are as follows. Attach additional pages if needed.

1. In December 2012 I had to take a leave of absent from my job because of complication from rectal cancer surgery. I return to work in November 2013 and was given a work accommodation by my employer Delhaize American Transportation LLC and since then my employer hasn't always honor this agreement by taking me past the ten hour driving limit set by my doctor, once in the fall of 2016 and several times in 2017. My employer forster a hostile work enviornment by allowing threats and verbal abuse to continue against me a preson covered by the American with Disabilities Act on 07/22/17 again on 11/21/17 taking no action to stop it.

2. My employer keeps unauthorized disclosed health Information on me in their computer system and when I requested that my health Information be removed from their systems by written request to Human Resources I was retaliated against by being suspended from work and denied the right to due process that's afforded to each employee accused of wrokplace misconduct.

3. In July of 2017 I complained to HR about being denied FMLA and a day after my complaint my mileage dropped and the number of trips made in a day was cut causing a reduction in my pay. This continued until 02/18. My employer discriminate in its payment system (Activity Base Compensation) by allowing certain drivers to maintaining a constant weekly mileage and drive past fourteen hour duty day set by the Department of Transportation while other drivers mileage fluctuate resulting in drivers at top pay having a \$10,000 to \$15,000 annual pay difference.

4. On 11/08/2017 Med Fast Urgent Care released my health information to Delhaize America Transportation LLC without my authorization after completing a Department of Transportation Physiscal. When I informed Delhaize America Transportation LLC, DC04 management and human resource that they were not entitled to have my health history, they conspired and retaliation against the plaintiff.

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on *(date)*

12/12/2017

- B. The Equal Employment Opportunity Commission *(check one)*:

☐

has not issued a Notice of Right to Sue letter.

☒

issued a Notice of Right to Sue letter, which I received on *(date)* 3/14/2018 .

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct *(check one)*:

- ☐ 60 days or more have elapsed.
☐ less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

1. Plaintiff seeks compensatory damages of \$300,000 for emotional anguish, and endangering the health of plaintiff. This is the maximum limit for damages for discrimination under ADA federal law.
2. Plaintiff seeks punitive damages of \$300,000 for egregious indifference disregard for federal law. This is the maximum punitive damages for discrimination under ADA federal law.
3. Plaintiff seeks Back Pay damages of \$50,000 for monetary loss because of pay discrimination.
4. Plaintiff seeks order from the court to compel defendant, Delhaize America Transportation LLC to remove unauthorized disclosed health information from defendant computer systems.
5. Plaintiff seeks \$150,000 in damages for keeping said health information on defendant, Delhaize America Transportation LLC computer systems and the dissemination to other.
6. Plaintiff seeks damages of \$ 25,000 from Med Fast Urgent Care for the unauthorized disclosure of health information. This is the maximum limit for damages for a one time unauthorized disclosure of health information allowed by federal law.
7. Plaintiff seeks damages of \$10,000 from Mike Dickey, \$10,000 from Richard Eason, and \$5,000 from Jim Daly for conspiracy and retaliation aimed to silence the Plaintiff.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 05/30/18

Signature of Plaintiff

Printed Name of Plaintiff

Bobby Hart
BOBBY HART

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Street Address _____

State and Zip Code _____

Telephone Number _____

E-mail Address _____